

# MEMORANDUM

Agenda Item No. 11(A)(8)

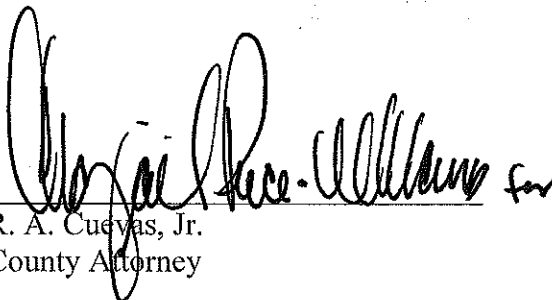
**TO:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

**DATE:** November 5, 2014

**FROM:** R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Resolution setting policy for Miami-Dade County requiring that the exercise of certain reverter or lease termination provisions when public use is not maintained shall be at no additional cost to the County and requiring Board approval prior to any assignment or transfer of the property subject to certain exceptions

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman.



R. A. Cuevas, Jr.  
County Attorney

RAC/cp



# MEMORANDUM

(Revised)

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and Members, Board of County Commissioners

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Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 11(A)(8)  
11-5-14

RESOLUTION NO. \_\_\_\_\_

RESOLUTION SETTING POLICY FOR MIAMI-DADE COUNTY REQUIRING THAT THE EXERCISE OF CERTAIN REVERTER OR LEASE TERMINATION PROVISIONS WHEN PUBLIC USE IS NOT MAINTAINED SHALL BE AT NO ADDITIONAL COST TO THE COUNTY AND REQUIRING BOARD APPROVAL PRIOR TO ANY ASSIGNMENT OR TRANSFER OF THE PROPERTY SUBJECT TO CERTAIN EXCEPTIONS

**WHEREAS**, in certain instances, in order to promote community interest or welfare, or to promote economic development and business creation in the County, conveyances or leases are entered into for values below appraised value or fair market rent; and

**WHEREAS**, in certain instances, the entity to which property has been transferred for such purposes has sought to convey its interests to another entity or person; and

**WHEREAS**, Board policy has previously been established requiring the inclusion of a lease termination or reverter provision which can be exercised in the event that the use for which such property is conveyed is not maintained; and

**WHEREAS**, Resolution No. R-461-13 establishes the policy of this Board providing, in part, that property conveyances made pursuant to Florida Statute Section 125.38 to not-for-profit corporations or governmental entities include reverter or lease termination provisions if the use contemplated by the Board is not maintained; and

**WHEREAS**, Resolution No. R-573-11 requires that any deed conveying an interest in real property to a Community Redevelopment Agency contain a reverter if it is not used for the purposes agreed upon by the Board at the time of the conveyance; and

**WHEREAS**, inclusion of a reverter or lease termination provision allows the County to regain control of the property when the intent of the Board is not met; and

**WHEREAS**, if the County is required to exercise a reverter or lease termination provision after property has been conveyed at less than market value, then the County should not be required to incur additional costs or expenses, or to pay additional compensation, in connection with regaining control of the property after the entity fails to maintain the intended use; and

**WHEREAS**, in order to eliminate additional expenses in connection with regaining control of property after noncompliance by an entity, it is in the best interest of the County to include a provision in leases and instruments of conveyance that such reversion shall be at no additional cost to the County if the public use is not maintained; and

**WHEREAS**, in the event that a property interest has been transferred for less than fair market value or rental, such entity should not be permitted to sell or lease the property to another person or unaffiliated entity, absent prior approval by the Board,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:**

**Section 1.** This Board ratifies and adopts the matters set forth in the foregoing recitals.

**Section 2.** It shall be the policy of this Board, when conveying or leasing property to persons or entities for less than fair market value or rental for the public benefit, that the lease or instrument of conveyance shall include a provision that the County shall not be required to pay any compensation to the entity in connection with the exercise of the reverter or lease termination, and that such reversion shall be at no additional cost or expense to the County if the intended use is not maintained.

**Section 3.** It shall be the policy of this Board, when conveying or leasing property to persons or entities for less than fair market value or rental, that a provision be included in the instrument of conveyance or lease requiring Board approval in the event that the entity to which the property was conveyed or leased seeks to transfer or assign its interest to another person or unaffiliated entity. Conveyances, transfers or assignments to affiliated entities shall require the consent of the County Mayor or Mayor's designee.

**Section 4.** This resolution shall not apply to conveyances and leases made pursuant to Section 125.35(1)(a) and (2), Florida Statutes, regarding conveyances to the highest bidder, or sale of non-developable remnants to adjacent owners, and additionally shall not apply to conveyances made pursuant to Section 125.37, Florida Statutes, relating to property exchanges. Section 3 of this resolution requiring Board consent prior to transfer shall not apply to conveyances made pursuant to the County's Infill Housing Initiative Program or other affordable housing programs and purposes requiring lease or sale after the affordable housing is constructed.

The Prime Sponsor of the foregoing resolution is Commissioner Sally A. Heyman. It was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman

Lynda Bell, Vice Chair

Bruno A. Barreiro

Jose "Pepe" Diaz

Sally A. Heyman

Jean Monestime

Sen. Javier D. Souto

Juan C. Zapata

Esteban L. Bovo, Jr.

Audrey M. Edmonson

Barbara J. Jordan

Dennis C. Moss

Xavier L. Suarez

The Chairperson thereupon declared the resolution duly passed and adopted this 5<sup>th</sup> day of November, 2014. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.



Debra Herman